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Comptroller of the Currency
Administrator of National Banks

Community Bank Fiduciary Activities Supervision

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Asset Management

Community Bank

Fiduciary Activities Supervision

Table of Contents

Introduction

Background	1
Supervision of Fiduciary Activities	1

Fiduciary Activities Examination Procedures

Core Assessment	3
Examination Planning	3
Management	7
Operations, Internal Controls, and Audits	11
Earnings	23
Compliance	26
Asset Management	36
Examination Conclusions	43
Examination Communication, Review, and Closing	45

Appendixes

A. Fiduciary Request Letter	48
B. Personal Trust Account Administration Worksheet	51
C. Employee Benefits Worksheet	53
D. Employee Stock Ownership Plans (ESOPs) Worksheet	56
E. Corporate Trust and Agency Worksheet	59
F. Stock Transfer Agency Worksheet	62
G. Paying Agent and Bond Registrar Worksheet	63
H. Escrow Agent Worksheet	64
I. Real Estate Worksheet	66
J. Real Estate Loan Worksheet	69
K. Collective Investment Funds Worksheet	71
L. Earnings Analysis Worksheet	72

References

73

Background

Fiduciary services are becoming increasingly important to the banking industry as a source of fee income. Many community banks offer these services to generate income or as part of an effort to provide a full range of services to their customers. Whatever the reason for offering fiduciary services, banks should be aware of their heightened responsibilities as corporate fiduciaries.

A corporate fiduciary manages the assets and investments of others. A fiduciary is obligated to invest and protect the assets of beneficiaries and to manage accounts solely in the best interest of the beneficiaries. In doing so, a fiduciary is held to a high standard of care. A fiduciary's investment practices in individual accounts are governed by the terms of the instruments that establish the fiduciary relationship. The prudent man rule or the prudent investor rule may also govern them, as established by local law.

A bank offering fiduciary services must fully understand and manage the associated risks. Generally, a bank that offers fiduciary services is exposed to transaction risk, compliance risk, reputation risk, and strategic risk. Servicing an account for beneficiaries may also require a bank fiduciary to manage other risks, including credit, interest rate, liquidity, price, and foreign exchange risk. The amount of risk varies with the types of products and services offered, the experience and ability of management and personnel, and the internal control environment.

Supervision of Fiduciary Activities

This "Community Bank Fiduciary Activities Handbook" provides examiners with specific guidance on supervising fiduciary activities. This booklet is intended to be used in conjunction with the "Community Bank Supervision" booklet of the *Comptroller's Handbook*, which is the primary guide to OCC supervision of community banks. The "Community Bank Supervision" booklet explains the philosophy and methods the OCC uses to supervise community banks. That booklet describes the three-part template — core knowledge, core assessment, and optional procedures — that integrates risk-

based supervision into all aspects of the supervisory process. It also discusses supervision by risk and the whole supervisory process for community banks. The supervisory philosophy communicated in the “Community Bank Supervision” booklet applies to the supervision of fiduciary activities in institutions that have less than \$1 billion in total fiduciary assets.

The “Community Bank Fiduciary Activities Supervision” booklet applies to an institution’s services when it acts in a fiduciary capacity as described in 12 CFR 9.2(e). However, some complex activities not normally offered by a community bank (for example, investment advisory services) are not addressed in this guidance. The OCC is developing a series of examination booklets for use in examining complex fiduciary activities.

This “Community Bank Fiduciary Activities Supervision” booklet guides examiners in conducting performance-based, on-site fiduciary examinations that enable examiners to understand how bank management identifies, measures, controls, and monitors its risk. To evaluate the effectiveness of the bank’s internal controls, examiners conduct transaction testing. This booklet’s sections on procedures state the minimum conclusions that examiners must draw and the objectives that examiners must meet during the examination. The procedures listed under each objective are optional; they should be completed only when necessary to meet the stated objective.

By following the examination procedures in this booklet, an examiner can assign fiduciary ratings and assess the risks that fiduciary activities pose to the bank. The fiduciary examiner should complete a risk assessment at the conclusion of the examination and communicate findings to the bank portfolio manager or the examiner in charge of the bank’s safety and soundness examination.

Community Bank Fiduciary Activities Supervision Examination Procedures

Core Assessment

Examiners use the core assessment standards in the “Community Bank Supervision” booklet of the *Comptroller’s Handbook* for both monitoring and on-site examinations of community banks. The supervision of fiduciary activities should be conducted following those standards and in cooperation with the bank EIC or portfolio manager.

The core assessment for on-site fiduciary examinations is structured according to the Uniform Interagency Trust Rating System (UITRS). Risk considerations and references to the community bank risk assessment system (RAS) are noted throughout the standards. Each section has minimum *conclusions* that examiners must reach and *objectives* that they must meet during the examination. The procedures under each objective are optional. The on-site procedures include the following sections: “Management,” “Operations, Control, and Audits,” “Earnings,” “Compliance,” and “Asset Management.”

Examination Planning

If the fiduciary examination and a safety and soundness examination are being conducted concurrently, their planning activities should be coordinated to prevent duplication of efforts and ensure a consistent approach.

If any of the bank’s Uniform Interagency Trust Rating Systems (UITRS) ratings are 3 or worse, or if the risk arising from fiduciary activities is moderate and increasing or high, the EIC, in consultation with the supervisory office, should consider expanding the procedures for that component.

Objective 1: Determine the characteristics of the fiduciary activities conducted at the bank and set the preliminary scope and objectives for the examination.

1. Review the following for the bank being examined:

- Previous reports of examination that included a fiduciary examination.
 - Other applicable regulatory reports.
 - OCC electronic files:
 - Examination analysis comments.
 - Quarterly review comments.
 - Risk assessment system.
 - OCC correspondence file.
 - Previous examination working papers.
 - Any other internal or external information deemed pertinent to the bank.
2. As appropriate, discuss bank fiduciary services and the associated risks with the portfolio manager and assistant deputy comptroller.
 3. Establish the preliminary scope of the examination, considering such factors as:
 - Previous examination findings.
 - Recent audit findings (if known as part of ongoing supervision).
 - New fiduciary products or services offered at the bank.
 - The bank's risk profile.
 - Changes in bank management or operating systems.
 - The bank's supervisory strategy.

Objective 2: Plan and coordinate the on-site examination.

1. Approximately four to six weeks before the examination is scheduled, phone or visit the bank's fiduciary management to discuss:
 - The timing of the examination.
 - The scope and objectives of the examination.
 - General information about examiners' schedules, staffing levels, and how long the examiners expect to be at the bank.
 - The availability of key, fiduciary personnel during the examination.
 - Significant changes in fiduciary products or services.
 - Changes in bank management, key personnel, or operations.
 - Significant pending or threatened litigation.
 - Purchase, acquisition, or merger considerations.

- Changes in technology, including operational systems, or plans for new products/activities that involve new technology.
 - Management concerns about fiduciary activities or the OCC's supervision, including any areas management would like the OCC to consider in the examination scope.
2. Using information received from bank management, review and assess the appropriateness of the current supervisory strategy. If the supervisory strategy should be modified:
 - Obtain approval from the supervisory office.
 - Update, archive, and save the previous and modified strategies in the OCC electronic files.

Objective 3: Prepare for on-site examination activities.

1. Finalize the scope and objectives of the fiduciary examination and prepare a written scope memorandum.
2. Prepare assignments for examining staff to ensure that the examination scope and objectives are achieved. The assignments should include time frames for on-site activities.
3. After initial contact with the bank, but generally no less than three weeks before the start of the examination, send a request letter to the bank that provides:
 - The examination start date.
 - The scope and objectives of the review.
 - A description of the advance information that the bank must provide the examination team, including due dates for the submission of requested items.
 - A description of the information that must be available to the examiners upon their arrival at the bank.
 - The name and telephone number of the OCC contact.

Note: The examiner may use the standard fiduciary request letter in appendix A. For banks with supervisory strategies expanded beyond the core assessment, customize the request letter to effectively achieve stated supervisory objectives.

4. Prepare supplies and working paper files to take to the bank for the examination.
5. Open a fiduciary analysis and, if appropriate, a transfer agent analysis in OCC electronic files using the date on which the examination begins.

Objective 4: Conduct on-site planning meetings.

1. Meet with the bank fiduciary contact and appropriate members of senior management at the beginning of the examination to:
 - Explain the scope of the examination, the role of each examiner, and how the team will conduct the examination.
 - Confirm the availability of bank personnel.
 - Identify communication contacts.
 - Answer any questions.
2. Meet with the examination staff at the beginning of the examination to confirm:
 - Scope and objectives.
 - Workdays.
 - Assignments and due dates.
 - Administrative duties.
 - Guidelines for contact and communication between the examining team, bank management, and OCC supervisory offices.

Note: If necessary, refer to the “Examination Planning and Control” booklet of the *Comptroller’s Handbook* for more detail on planning an examination.

Management

Conclusion: Management is rated (1, 2, 3, 4, 5).

Using the findings from achieving the following objectives and in consultation with the EIC and appropriate examining personnel, assign the rating for management. Consider the following factors from the Uniform Interagency Trust Rating System:

- Level and quality of oversight and support of fiduciary activities by the board of directors and management, including committee structure and whether committees adequately document their actions.
- Ability of the board of directors and management, in their respective roles, to plan for and respond to risks that may arise from changing business conditions or the introduction of new activities or products.
- Adequacy of, and the bank's conformance with, internal policies, practices, and controls addressing the operations and risks of significant fiduciary activities.
- Accuracy, timeliness, and effectiveness of management information and risk monitoring systems, and whether such systems are appropriate for the institution's size, complexity, and fiduciary risk profile.
- Overall level of compliance with laws, regulations, and sound fiduciary principals.
- Responsiveness to recommendations from auditors and regulatory authorities.
- Strategic planning for fiduciary products and services.
- Level of experience and competence of fiduciary management and staff, including issues relating to turnover and succession planning.
- Adequacy of insurance coverage.
- Availability of competent legal counsel.
- Extent and nature of pending litigation associated with fiduciary activities, and its potential impact on earnings, capital, and the institution's reputation.
- Process for identifying and responding to fiduciary customer complaints.

Objective 1: Determine whether fiduciary management and the board of directors effectively identify, measure, monitor, and control the risks of their institution's fiduciary activities.

1. Early in the examination, discuss with senior management:
 - Major risks arising from fiduciary activities and management's strategies to control them.
 - Changes, or planned changes, in senior management since the last examination. If appropriate, consider the management succession plan.
 - Changes in board and oversight committee structure.
 - Strategic plans and goals for fiduciary services.
2. Review information submitted in response to the request letter. If not already requested, obtain and review:
 - ☐ Trust Committee minutes since the last examination.
 - ☐ A copy of the most recent informational package supplied to the Trust Committee.
 - ☐ Committee minutes of all other trust-related committees.
 - ☐ Current organizational chart.
3. Determine how management and the board:
 - Plan for and respond to risks that arise from existing or new fiduciary services.
 - Develop and implement policies and procedures appropriate to the complexity of the bank's fiduciary activities.
 - Evaluate the accuracy, timeliness, and effectiveness of management information systems.
 - Evaluate the effectiveness of internal risk management systems.
 - Provide for a suitable audit.
 - Evaluate compliance with applicable law.
 - Provide for the following:
 - Competent personnel.
 - Adequate insurance coverage.
 - Competent legal counsel.
 - Timely response to consumer complaints.

Objective 2: Determine the quality of formal or informal risk management systems.

Using the findings from achieving the fiduciary examination objectives, evaluate the adequacy of risk management systems. Consider:

- Weaknesses in recognizing and understanding existing risk.
- Evidence that risk is not measured as well as it should be.
- Failure to establish, communicate, and control risk limits.
- Whether management appropriately and accurately monitors established risk levels.

Objective 3: Determine whether findings from other sections of this booklet's procedures should affect the evaluation of management.

In consultation with other examining personnel, the fiduciary examiner should consolidate findings from all fiduciary services reviewed to determine their impact on the management rating. The fiduciary examiner should consider the overall quality of risk management, the direction of risk, and other recommended fiduciary component ratings.

Objective 4: Determine the need to expand procedures, develop a plan for corrective action, or both.

If the risks arising from fiduciary activities are moderate and increasing or high, or if any fiduciary area is rated 3 or worse, develop, in consultation with the bank portfolio manager and, if appropriate, the assistant deputy comptroller, action plans to address deficiencies. Consider:

- The need to expand procedures to determine the root cause of problems.
- Management's ability to correct the bank's fundamental problems.
- Whether management commits to taking corrective action for any significant weaknesses.

Objective 5: Conclude the management review.

1. Write appropriate comments for the report of examination.
2. Update OCC electronic files and working papers.

Operations, Internal Controls, and Audits

Conclusion: Operations, controls, and audits is rated (1,2,3,4,5).

Using the findings from achieving the following objectives and in consultation with the EIC and appropriate examining personnel, assign the rating for operations, internal controls, and audits. Consider the following factors from the Uniform Interagency Trust Rating System:

- Staff, facilities, and operating systems.
- Records, accounting, and data processing systems (including controls over systems access and such accounting procedures as aging, investigation, and disposition of items in suspense accounts).
- Trading functions and securities lending activities.
- Vault controls and securities movement.
- Segregation of duties.
- Controls over disbursements (checks or electronic) and unissued securities.
- Controls over income-processing activities.
- Reconciliation processes (depository, cash, vault, subcustodians, suspense accounts, etc.).
- Disaster and/or business recovery programs.
- Hold-mail procedures and controls over returned mail.
- Investigation and proper escheatment of funds in dormant accounts.
- Audits, including the:
 - Independence, frequency, quality, and scope of internal and external fiduciary audits relative to the volume, character, and risk profile of the institution's fiduciary activities.
 - Volume and severity of internal control and audit exceptions and how well the indicators are tracked and how the issues raised are resolved.
 - Experience and competence of the audit staff.

Objective 1: Determine whether the system of fiduciary internal controls is adequate.

Directors and senior management should have reasonable assurance that their system of internal controls prevents or detects inaccurate, incomplete, or unauthorized transactions; deficiencies in the safeguarding of assets;

unreliable financial and regulatory reporting; and deviations from laws, regulations, and the institution's policies. Consult with other fiduciary examiners to assess internal controls.

1. Evaluate the internal control environment. Consider:
 - The attention and direction provided by the board of directors and its committees.
 - Management's philosophy and operating style.
 - The organizational structure of the bank, particularly those areas that offer fiduciary services.
 - Methods of assigning authority and responsibility, and methods of organizing and developing personnel.
 - External influences affecting operations and practices (e.g., independent audits).
2. Evaluate the risk assessment system. Consider:
 - External and internal circumstances that could impede strategic initiatives.
 - The identification and analysis of risk.
 - The system that manages and monitors risk.
 - The responsiveness of the system to changing risk conditions.
 - The competency, knowledge, and skills of staff members responsible for risk management.
3. Evaluate control activities. Consider:
 - Policies and procedures established to ensure that control processes are tested periodically.
 - Reviews of operating activities.
 - Approval and authorization of transactions and activities.
 - Safeguarding access to and use of sensitive assets and records.
 - Independent checks or verifications that controls are working and reconcilements are performed.
 - Segregation of duties and management and employee accountability.
 - Vacation requirements or periodic rotations of duties for personnel in sensitive positions.

4. Evaluate the accounting, information, and communication systems. Consider:
 - The effectiveness of MIS to identify, track, and communicate in a timely manner meaningful information.
 - Accounting systems that segregate and identify fiduciary assets.
 - Contingency planning for information systems.
5. Evaluate the self-assessment and monitoring system. Consider:
 - Periodic self-assessments or independent audits of internal controls.
 - Systems that require timely and accurate reporting of deficiencies.
 - Processes that require timely modification of policies and procedures, as needed.

Objective 2: Determine whether fiduciary activities receive a suitable audit.

OCC Bulletin 98-1, "Interagency Policy Statement on Internal Audit and Internal Audit Outsourcing," contains information on sound practices for conducting internal audits and for using outside vendors to perform audits. 12 CFR 9.9 establishes specific audit requirements for national banks exercising fiduciary powers. The adequacy and scope of audit coverage may affect the level of examiner testing and sampling of fiduciary activities. Whenever possible, evaluate the audit early in the examination process.

1. Evaluate whether the fiduciary organizational structure gives needed authority and support to the audit function without impairing its impartiality. Determine:
 - Whether an audit committee was formed and made responsible for auditing the bank's fiduciary activities (12 CFR 9.9(c)).
 - That the audit committee does not delegate its responsibilities to any person or group of persons.
2. Consider whether the audit committee:

- Is a committee of bank directors or an audit committee of an affiliate of the bank (12 CFR 9.9(c)(1) and (2)). Determine that the committee does not:
 - Include officers of the bank or an affiliate that participate significantly in the administration of the bank's fiduciary activities.
 - Have a majority of members who are also members of another bank committee with power to manage and control the fiduciary activities of the bank.
 - Arranges for a suitable annual audit of the bank's fiduciary activities (12 CFR 9.9(a)).
 - Reviews and approves the audit plan.
 - Approves the frequency and level of audit testing and review consistent with the nature, complexity, and risk of fiduciary services offered by the bank.
 - Has adopted a continuous audit program that audits each fiduciary activity on an interval commensurate with the nature and risk of the activity (12 CFR 9.9(b)).
 - Reports the audit findings to the board, including significant actions taken because of the audit.
3. Evaluate audit management, staffing, and quality. Consider, as appropriate:
- Audit's risk assessment process, including identification of inherent risks in fiduciary business lines or products.
 - Audit's assessment of the effect of identified control deficiencies on risk levels.
 - The audit plan, including the allocation of resources based on the risk assessment.
 - The content of audit reports, including audit purpose and scope, and findings, conclusions, and recommendations.
 - The adequacy of audit working papers to document audit work and audit conclusions.
4. Determine whether the audit scope includes:
- An analysis of identified and potential risks arising from the bank's fiduciary activities.
 - Asset verification.

- Asset movement and control.
 - Operations control.
 - Transaction control.
 - Management information systems/bank information systems.
 - Asset management.
 - Account administration/acceptance process.
 - Conflicts of interest.
 - Adequacy of the compliance program.
5. Evaluate the effectiveness of communication. Consider:
- Whether internal control weaknesses are reported to the appropriate level of management as soon as they are identified.
 - How significant matters are reported to the board of directors or the directors' audit committee.
 - The process used to determine that internal control weaknesses or other exceptions are being resolved by management in a timely manner.
 - Whether internal audit has access to the board or board audit committee without the presence of management, when necessary.
6. If the bank outsources internal audit, refer to OCC Bulletin 98-1, "Interagency Policy Statement on Internal Audit and Internal Audit Outsourcing," for guidance.

Objective 3: Verify, as necessary, the effectiveness of internal controls over fiduciary operations.

Using the findings from achieving the first two objectives in these procedures, determine whether testing is needed to verify the effectiveness of internal controls over fiduciary operations. The examiner should consider the adequacy of audit and compliance coverage and the overall control environment. The examiner may use these procedures to periodically validate audit findings.

General Operational Systems and Controls

1. Evaluate accounting system controls, including appropriate separation of duties and responsibilities. Consider:

- Input preparation and balancing functions such as batch controls, blotters, and transaction journals.
 - Data entry.
 - Operation of the computer system.
 - General ledger and individual asset/liability controls.
 - Periodic trial balances.
 - Exception reports.
 - Authorization and release of disbursed funds.
2. Determine the adequacy of reconcilements performed for demand deposit accounts, cash sweep vehicles, depositories, and suspense/house accounts. Consider:
 - Timeliness and frequency of reconcilements.
 - Aging of items.
 - Timely follow-up and resolution of all open items.
 - Accuracy, completeness, and appropriateness of supervisory approval.
 3. Determine whether corporate actions, including stock dividends, stock splits, and proxy voting, are properly handled.
 4. Assess the adequacy of controls over asset movements. Consider:
 - Segregation of duties and responsibilities between the authorization, control, operating, and record keeping functions.
 - Reporting and tracking of failed trades.
 - Reporting and tracking of securities out for transfer.
 - Settlements made on a payment versus delivery basis.
 5. Review the most recent "Annual Report of Trust Assets" for accuracy.
 6. Determine that the bank has a process to ensure compliance with state escheatment rules.

Custody and Safekeeping of Assets

In general, custody and safekeeping services at community banks are provided as an accommodation to existing clients. If the community bank is offering custodial services as a business line, the examiner should refer to the large bank fiduciary procedures for guidance.

1. Assess the adequacy of the processes used to safeguard fiduciary assets. Determine that:
 - Assets are maintained under dual control (12 CFR 9.13).
 - Assets are held in nominee name.
 - Internal controls are sufficient to safeguard against loss. Determine that:
 - Assets physically held by the bank are kept in a controlled vault or securities cage.
 - Assets are promptly recorded to accounting records.
 - The bank has appropriate physical security measures (12 CFR 21).
 - Bank assets are segregated from fiduciary assets (12 CFR 9.13(b)).
 - The bank has proper controls over unissued checks and securities.
 - Assets held by outside depositories are properly controlled. Determine that the bank:
 - Receives acknowledgment of the assets' receipt.
 - Keeps appropriate records.
 - Periodically reconciles statements of holdings.
 - Has appropriate safeguards governing release of assets.
 - Has appropriate physical safeguards.
2. Determine that the bank has implemented know-your-customer guidelines for custody customers. (Refer to the "Bank Secrecy Act" booklet of the *Comptroller's Handbook* for guidance.)
3. Assess the bank's procedures to prevent free-riding. (Refer to Banking Circular 275, "Free Riding in Custody Accounts.")

4. If the bank uses an outside custodian to hold assets, consider:
 - Management's estimate of the custodian's safety and reliability.
 - Adequacy of reconcilements.

Record Keeping and Confirmation Requirements

National banks effecting security transactions for a customer are required under 12 CFR 12 to maintain minimum records of the transaction and provide timely notification to the customer.

1. Determine that the bank maintains securities trading policies and procedures (12 CFR 12.7).
2. Determine that the bank maintains the following minimum records with necessary detail (12 CFR 12.3).
 - Chronological records.
 - Account records.
 - Memorandum or order ticket.
3. Determine that records are accurate and provide an adequate basis for audit (12 CFR 12.3(b)).
4. Determine that the bank notifies the customer of transactions as required by 12 CFR 12.4 or by the alternative forms of notification in 12 CFR 12.5. Trust transactions, other than for agency accounts, are normally exempt from notification requirements, unless an authorized person requests written notification.

Shareholder Communications Rules

SEC Rules 17 CFR 240.14-17 govern the distribution of proxy materials and the disclosure of information about shareholders whose securities are registered in a bank nominee name.

1. Determine that the bank obtained a clear consent or denial for disclosure of beneficial owner information and maintains adequate records of beneficial ownership information for each account (17 CFR 240.14b-2(b)(5)).

2. Determine how the bank passes information received from issuers, such as proxies and annual reports, to beneficial owners as appropriate (17 CFR 240.14c-2 and 17 CFR 240.14c-101).
3. Review bank responses to issuers' requests for information to determine whether the responses were appropriate and timely (17 CFR 240.14b-2(b)).

Transfer Agent Activities

Regulations have been enacted to ensure that transfer agents process shareholder transactions in an accurate and timely manner (17 CFR 240.17Ad-1 et seq.). These procedures are to be used in community banks that act as transfer agent for themselves or as an accommodation for a local client. If the community bank is pursuing transfer agent activities as a business line, the examiner should consult the large bank fiduciary procedures for guidance.

1. If the bank acts as transfer agent for any issuer with more than \$1 million in total assets and 500 or more security holders of record, determine that it has registered as a transfer agent by filing Form TA-1 with the OCC.
2. If the bank is registered as a transfer agent, determine whether it qualifies for the exemption from turnaround requirements. Consider:
 - Management's preparation and maintenance of an exemption notice if, in six consecutive months, the bank received fewer than 500 items for transfer or fewer than 500 items for processing as a registrar. (Whenever the transfer agent receives more than 500 items in six consecutive months, the exemption ceases.)
 - The bank's monthly calculation of the number of items received for transfer or processing.
3. If the bank is a registered, nonexempt transfer agent, determine that the bank meets the requirements of SEC regulation 17 CFR 240.17Ad-1 et seq. (Refer to the large bank fiduciary procedures and the "National Bank Transfer Agents' Guide" for guidance.)

Fiduciary Information Systems

Whenever possible, fiduciary examiners should coordinate their review of information systems with BIS examiners. These procedures assume that the bank receives fiduciary information system services from a data processing vendor. When the community bank maintains fiduciary systems in-house, the examiner should contact the bank EIC to determine how best to evaluate the system.

1. Discuss the existing management information systems with fiduciary management. Consider, as appropriate:
 - The timeliness, accuracy, consistency, completeness, and relevance of information provided to management.
 - Any changes in fiduciary systems being contemplated by management.
2. Assess the adequacy of the bank's review of fiduciary data processing vendors' financial statements, audit reports, and examination reports.
3. Evaluate the audit of fiduciary information systems.
4. Review the bank's business recovery plan for adequacy. Consider whether those plans complement the vendor's contingency plans.
5. Determine whether the board and management properly oversee controls and practices in fiduciary information processing, including microcomputers and local-area-networks (LANs). Consider, as appropriate:
 - Corporate contingency planning.
 - Information security.
 - Reports used by the board and management.
6. Determine that the fiduciary information systems provide the information necessary for the bank to manage its fiduciary services.

Objective 4: Determine the quality of formal or informal risk management systems.

Using the findings from achieving the previous objectives, consult with the EIC and other appropriate examining personnel to make preliminary judgments on the adequacy of risk management systems governing operations, internal controls, and audit. Consider:

- Weaknesses in recognizing and understanding existing risk.
- Evidence that risk is not measured in an accurate or timely manner.
- Failure to establish, communicate, and control risk limits.
- Whether management appropriately and accurately monitors risk levels.

Objective 5: Determine, after achieving the foregoing objectives, whether there is significant risk exposure from operations, internal controls, and audit.

In consultation with the EIC and other examining personnel, identify any significant risks that became evident during the review of operations, internal controls, and audit. Evaluate both the level and direction of risk in each applicable risk category. Refer to the risk assessment system as needed. Comment only as necessary to support your conclusions.

Objective 6: Determine the need to expand the procedures, develop a plan for corrective action, or both.

If operations, internal controls, and audit are rated 3 or worse or if significant risks were identified:

- Consider the need to expand the scope of the examination to determine the root cause of the problems.
- Determine whether management is able to correct the bank's fundamental problems.
- Work with the EIC to propose a strategy to address the bank's weaknesses and discuss with the portfolio manager.

Objective 7: Conclude the review of operations, internal controls, and audits.

1. Write comments for the report of examination.
2. Update OCC electronic files and working papers.

Earnings

Conclusion: Earnings are rated (1, 2, 3, 4, 5).

Using the findings from achieving the following objectives and in consultation with the EIC and appropriate examining personnel, assign a rating to earnings. Consider the following factors from the Uniform Interagency Trust Rating System:

- Profitability of fiduciary activities in relation to the size and scope of those activities and to the overall business of the institution.
- Overall importance to the institution of offering fiduciary services to its customers and local community.
- Effectiveness of the institution's procedures for monitoring fiduciary activity income and expense relative to the size and scope of these activities and their relative importance to the institution, including the frequency and scope of profitability reviews and planning by the institution's board of directors or a committee thereof.
- Level and consistency of profitability, or the lack thereof, generated by the institution's fiduciary activities in relation to the volume and character of the institution's business.
- Dependence upon nonrecurring fees and commissions, such as those for court accounts.
- Effects of charge-offs or compromise actions.
- Unusual features regarding the composition of business and fee schedules.
- Accounting practices that may be unusual, such as unusual methods of allocating (1) direct and indirect expenses and overhead and (2) fiduciary income and expense when two or more fiduciary institutions within the same holding company jointly offer fiduciary services or share processing functions.
- Extent of management's use of budgets, projections, and other cost analysis procedures.
- Methods used for directors' approval of financial budgets and/or projections.
- Management's attitude toward growth and new business development.
- New business development efforts.

Objective 1: Determine whether the bank's fiduciary activities are profitable.

1. If not obtained as part of the request letter, obtain and review:
 - ☐ Profit and loss statement for fiduciary services.
 - ☐ Budget and comparisons with performance.
 - ☐ Fiduciary fee schedule.
 - ☐ A listing of all significant losses or settlements since the last examination.
2. Analyze fiduciary earnings. (The examiner may use the optional "Earnings Analysis Worksheet" in appendix L.) Consider:
 - The profitability of the fiduciary services.
 - The method used by the bank to allocate expenses and overhead.
 - Growth trends in the number of accounts and the dollar amount of fiduciary assets.
 - Future earnings prospects.
 - The reliability of budgets and forecasts.
 - Explanations for any significant divergence from budget.
 - Information reported in Schedule E of the "Annual Report of Trust Assets," if available.
 - The adequacy of capital allocated to fiduciary business lines, if any.
3. Discuss with management any pending or threatened litigation and the probable impact on fiduciary and bank earnings.
4. Discuss with management their efforts to develop new business and project the impact on growth and earnings of fiduciary services.
5. Discuss with management the reason for continuing to offer unprofitable fiduciary services and how this may affect the bank's strategic plans. Determine that the board of directors is aware of the situation and the potential effect on bank earnings.

Objective 2: Determine the risk to overall bank earnings from the bank's fiduciary activities.

Fiduciary activities generally result in transaction, compliance, reputation, and strategic risks. In consultation with other examiners and the EIC, identify the level and direction of risks that may have an adverse impact on earnings. Refer to the risk assessment system in the *Comptroller's Handbook* booklet "Community Bank Supervision," as needed. Prepare written comments as necessary to support conclusions.

Objective 3: Determine the need to expand the procedures, develop a plan for corrective action, or both.

If earnings are rated 3 or worse or if significant risks were identified:

- Determine whether management is able to correct the bank's fundamental problems.
- Consider the need to expand the scope of the examination to determine the root cause of the problems.
- Work with the EIC to propose a strategy to address the bank's weaknesses and discuss with the portfolio manager.

Objective 4: Conclude the earnings review.

1. Write comments for the report of examination.
2. Update applicable OCC electronic files and working papers.

Compliance

Conclusion: Compliance is rated (1, 2, 3, 4, 5).

Using the findings from achieving the following objectives and in consultation with the EIC and appropriate examining personnel, assign a rating for compliance. Consider the following factors from the Uniform Interagency Trust Rating System:

- Compliance with applicable federal and state statutes and regulations, including, but not limited to, federal and state fiduciary laws, the Employee Retirement Income Security Act of 1974, federal and state securities laws, state investment standards, state principal and income acts, and state probate codes.
- Terms of governing instruments.
- Adequacy of policies and procedures addressing account administration.
- Adequacy of policies and procedures addressing conflicts of interest, including those designed to prevent the improper use of "material inside information."
- Effectiveness of systems and controls in place to identify actual and potential conflicts of interest.
- Adequacy of securities trading policies and practices relating to the allocation of brokerage business, the payment of services with "soft dollars," and the combining, crossing, and timing of trades.
- Extent and permissibility of transactions with related parties, including, but not limited to, the volume of related commercial and fiduciary relationships and holdings of corporations in which directors, officers, or employees of the institution may be interested.
- Decision-making process used to accept, review, and terminate accounts.
- Decision-making process related to account administration duties, including cash balances, overdrafts, and discretionary distributions.

NOTE: Achieving the following objectives may require a sampling of accounts. The size of any sample selected should be commensurate with the risk of the account type reviewed. Items should be selected for the sample according to their potential risk. Use common sense and judgment to determine the focus and extent of testing.

For example, if previous examinations and audit findings support the belief that a portfolio of personal trust accounts poses little risk, and management and the internal control environment remain fundamentally unchanged, there would probably be no need to select a large sample of personal trust accounts. However, the examiner may periodically elect to sample accounts to validate audit findings.

Objective 1: Determine whether fiduciary accounts are reviewed in compliance with the requirements of 12 CFR 9.6.

The following procedures may be performed in conjunction with the objectives that evaluate personal, employee benefit, and corporate trust administration. It is not necessary to select additional samples.

1. Select a sample of accounts opened since the last examination. Consider:
 - Acceptance of the fiduciary account by the board or its designee (12 CFR 9.6(a)).
 - Ability of bank personnel to properly administer the account.
 - The promptness of the initial review (12 CFR 9.6(b)).
 - Establishment of the account's objectives (12 CFR 9.6(b)).
 - The bank's plan as trustee to manage the trust account, including decisions concerning the retention or disposal of assets deposited in kind to the account.
 - "Know your customer" review.
2. Determine that all discretionary accounts receive annual reviews (12 CFR 9.6(c)).

Objective 2: Determine that personal trust accounts, both discretionary and nondiscretionary, are being administered in compliance with applicable law.

Select a sample of personal trust accounts and complete the following procedures, as appropriate. The examiner may use the optional "Personal Trust Account Administration Worksheet" in appendix B.

1. Review the quality of administration and compliance with applicable law. Consider:

- The accuracy and completeness of synoptic records.
 - Written documentation of directions from co-fiduciaries or other power holders.
 - Liquidity planning for the account.
 - Income receipts and expense payments for accuracy and timeliness.
2. Review discretionary accounts to determine that investment holdings meet the account objectives, comply with the terms of the governing instrument, and are suitable for the account. Consider the applicable state law, either the prudent man rule or the prudent investor rule. Evaluate liabilities for appropriateness. (This procedure may be coordinated with the examiner reviewing asset management.)
 3. Evaluate cash management processes (12 CFR 9.10). Consider, as appropriate:
 - The adequacy of the bank's policies and procedures addressing investment of funds held as a fiduciary, including short-term investments, as required by 12 CFR 9.5(e).
 - The process used to determine that cash is invested promptly.
 - The process used to prevent overdrawn accounts.
 4. Review transactions involving self-dealing or conflicts of interest, including transactions that may give the appearance of a conflict of interest. The examiner may coordinate this procedure with the examiner completing objective 5 of this section.

Objective 3: Determine whether employee benefit accounts are being administered in compliance with applicable law.

Select a sample of employee benefit accounts and complete the following procedures, as appropriate. The examiner may use the optional "Employee Benefits Worksheet" in appendix C and the "Employee Stock Ownership Plans Worksheet" in appendix D.

1. Review the quality of administration and level of compliance with applicable sections of ERISA. Determine that:

- Informative and accurate synoptic records are maintained for each account.
 - Plan assets meet the prudence requirements of ERISA section 404, including asset diversification and compliance with the plan provisions.
2. Evaluate controls the bank uses to limit risk from plans that use third-party investment managers. Consider whether the third-party investment manager:
- Was appointed pursuant to the terms of the plan document.
 - Meets the definition of an investment manager (ERISA section 3(38)).
 - Stated in a written statement to the bank that it is a registered investment advisor under the Investment Advisors Act of 1940 and a fiduciary with respect to the plan.
 - Is supervised by the bank if the bank is responsible for doing so. If the bank is responsible, determine whether it receives adequate information to properly supervise the investment manager and whether it has a process that requires periodic reviews.
3. Determine whether the bank receives investment direction from individual account plan participants. Consider:
- Authorization for plan participants to direct investments.
 - Diversification of account assets (ERISA section 404).
 - Prudence of investments (ERISA section 404).
4. Determine whether transactions occurred between the account and a party-in-interest. Consider:
- Specific prohibited transactions (ERISA section 406).
 - Sale or exchange of assets.
 - Extensions of credit.
 - Furnishing of goods and services.
 - Benefiting from the assets of an account.
 - Transactions exempted from the prohibited transaction rules (ERISA section 408).

- Contracting arrangements for office space and legal, accounting, or other services necessary to operate a plan, provided that no more than reasonable compensation is paid.
 - Loans to employee stock ownership plans.
 - Certain own bank deposits.
 - Bank collective investment funds.
 - Certain loans to parties-in-interest who are plan participants.
5. Determine whether the bank administers accounts holding qualifying employer securities (QES) or qualifying employer real property (QERP). If so, determine that:
- The acquisition of QES or QERP was permitted in the plan documents.
 - The fair market value of the acquired property immediately after acquisition did not exceed 10 percent of the fair market value of the plan (ERISA section 407). Certain plans, including ESOPs and stock bonus plans, are exempted from the 10 percent limit by ERISA.
6. Determine that accounts that allow participant loans are administered in compliance with ERISA section 408(b)(1), Internal Revenue Code section 72(p), and applicable consumer protection laws. The fiduciary examiner should consult with the consumer compliance examiner to determine whether a consumer review is required. Consider the following loan restrictions:
- The permissible aggregate loan balance for an individual participant is limited by the participant's vested interest. If the participant's vested interest is:
 - \$10,000 or less, the entire vested amount may be loaned.
 - Between \$10,000 and \$20,000, \$10,000 may be loaned.
 - Between \$20,000 and \$100,000, 50 percent of the vested amount may be loaned.
 - \$100,000 or more, \$50,000 may be loaned.
 - The amount available for a loan may be less than the amounts stated above if the participant had another loan outstanding in the twelve months prior to the date of the current loan.

- The loan must be repaid within five years, unless the proceeds are used to purchase the participant's principal residence.
 - Loan payments must be made at least quarterly with even amortization.
 - Participant loans must comply with the requirements in the loan policy section of the plan documents.
7. Evaluate fees charged for sweeping cash balances. If the bank charges a sweep fee, refer to Banking Circular 218, "Sweep Fees," for guidance.
 8. Report potential violations of ERISA to the Asset Management Division for possible referral to the Department of Labor. Refer to Trust Banking Circular 18, "Adoption of Interagency Agreement on ERISA."

Objective 4: Determine that corporate trust accounts and other security holder services are being administered in compliance with applicable law, including the Trust Indenture Act of 1939.

1. Select a sample of corporate trust accounts and review the quality of administration. Examiners may use the optional "Corporate Trust and Agency Worksheet" in appendix E, the "Stock Transfer Agency Worksheet" in appendix F, or the "Paying Agent and Bond Registrar Worksheet" in appendix G. Consider, as appropriate:
 - The duties and responsibilities of the trustee, including its capacity and responsibilities, which may include those as paying agent, disbursing agent, registrar, or trustee.
 - Compliance of investments with the terms of the governing document.
 - Periodic reconcilements of bonds authorized, outstanding, unissued, or canceled.
 - Compliance of cancellation procedures with the indenture.
2. Determine that the bank is following the default provisions of the indenture for all defaulted issues. Discuss with management instances in which the bank is serving in a dual capacity that could result in conflicts of interest.

3. Determine whether the bank has dormant dividend disbursement accounts, paying agent accounts, bond interest accounts, and principal accounts. If so, determine that:
 - The accounts are reviewed periodically.
 - The funds are escheated as required by applicable law.
4. Determine whether the bank has targeted transfer agent activities as a business line. If so, refer to the large bank procedures and the “National Bank Transfer Agent’s Guide” for guidance.

Objective 5: Determine that the bank avoids actual and potential conflicts of interests in compliance with applicable law.

1. Coordinate efforts with the examiners reviewing account administration to determine whether they identified any conflicts of interest during their account reviews.
2. If necessary, sample additional accounts to evaluate the bank’s compliance with applicable law. Consider, as appropriate:
 - The adequacy of written policies and procedures designed to prevent self-dealing and conflicts of interest (12 CFR 9.5(c)).
 - Discretionary accounts holding stock or obligations, certificates of deposits, or other long-term deposits of the bank, holding company, or an affiliate. Determine whether the deposits were funded into the account or made by the bank as trustee.
 - Purchases of stock or obligations, certificates of deposits, or other long-term deposits of the bank, holding company, or an affiliate.
 - Accounts holding stock or obligations of other organizations about which the bank may not be able to exercise its best judgment (if directors or officers of the bank, its affiliates, or related organizations own a company’s stock, for example).
 - Sales of assets between trust accounts (cross-trading) (12 CFR 12.7(a)(3) and 12 CFR 9.12(d)).
 - Sales of assets between the bank and a trust account.
 - Loans between trust accounts (12 CFR 9.12(e)).

- Loans from trust accounts to officers, directors, or employees (12 USC 92a(h)).
 - Loans from the trustee bank to an account (12 CFR 9.12(c)).
3. Review the ethics standards adopted for employees and determine that they address:
- Serving as co-fiduciary with the bank for a fee. (Neither the trustee nor anyone associated with the trustee should profit from the trust other than by receiving a trustee's fee.)
 - Receiving loans from fiduciary clients.
 - Accepting gifts and bequests from fiduciary clients.
 - Receiving goods and services from vendors (Banking Circular 233, "Acceptance of Financial Benefits by Bank Trust Departments").
 - Personal trading, based on information gained as an employee of the bank, that conflicts with the best interests of beneficiaries, i.e., front-running.
4. Review policies and procedures developed for bank officers and employees who are involved in the investment selection or recommendation process (12 CFR 12.7(a)(4)).
5. Review the controls the bank implemented regarding the use of nonpublic information in making investment decisions (SEC Rule 10b-5).
6. Determine that the bank adopted and follows written policies and procedures designed to ensure that fiduciary officers and employees do not misuse material inside information (12 CFR 9.5(b)).
7. Review the bank's written policy regarding brokerage placement practices (12 CFR 9.5(a)). Determine that:
- Brokerage fees and allocations are monitored.
 - Brokerage fees are not subject to depository, soft-dollar commitments, kickbacks, or other compensation arrangements that would impair the best judgment of the bank or prevent the best execution of trades.
 - Trades are fair and equitably allocated to all accounts.

8. Review soft-dollar arrangements to determine whether they fall within the safe harbor provisions in section 28(e) of the Securities Exchange Act of 1934.
9. Determine whether the bank uses an affiliated discount brokerage company to effect securities transactions for fiduciary accounts. If so, determine that the bank adequately discloses the relationship or obtains proper consent from parties with the capacity to give consent.

Objective 6: Determine the level of compliance with the bank's know-your-customer efforts.

Fiduciary activities should be included in the bank's overall know-your-customer program. Refer to the "Bank Secrecy Act" booklet for guidance. To the extent possible, the examiner should coordinate the review with the examiner evaluating compliance with the Bank Secrecy Act.

Objective 7: Determine the level of compliance with other applicable law.

Consult with other examiners to determine whether instances of noncompliance with applicable law were noted.

Objective 8: Determine the quality of formal or informal risk management systems.

Using the findings from achieving the previous objectives, consult with the EIC and other appropriate examining personnel to make preliminary judgments on the adequacy of risk management systems over compliance. Consider:

- Weaknesses in recognizing and understanding existing risk.
- Evidence that risk is not measured in an accurate or timely manner.
- Failure to establish, communicate, and control risk limits.
- Whether management accurately monitors established risk levels appropriately.

Objective 9: Determine, after achieving the foregoing objectives, whether there is significant risk exposure from compliance activities.

In consultation with the EIC and other examining personnel, identify any significant risks that became evident during the review of compliance. Evaluate both the level and direction of risk in each applicable risk category. Refer to the risk assessment system as needed. Comment only as necessary to support your conclusions.

Objective 10: Determine the need to expand the procedures, develop a plan for corrective action, or both.

If compliance is rated 3 or worse or if significant risks were identified:

- Consider the need to expand the scope of the examination to determine the root cause of the problems.
- Determine whether management is able to correct the bank's fundamental problems.
- Work with the EIC to propose a strategy to address the bank's weaknesses and discuss with the portfolio manager.

Objective 11: Conclude the compliance review.

1. Write comments for the report of examination.
2. Update applicable OCC electronic files and working papers.

Asset Management

Conclusion: Asset management is rated (1, 2, 3, 4, 5).

Using the findings from achieving the following objectives and in consultation with the EIC and appropriate examining personnel, assign the component rating. Consider the following factors from the Uniform Interagency Trust Rating System:

- Adequacy of overall policies, practices, and procedures governing asset management, considering the size, complexity, and risk profile of the institution's fiduciary activities.
- Decision-making processes used for selection, retention, and preservation of fiduciary assets including adequacy of documentation, committee review and approval, and a system to review and approve exceptions.
- Quantitative tools used to measure the various financial risks in investment accounts and portfolios.
- Existence of policies and procedures addressing the use of derivatives or other unusual investment products.
- Adequacy of procedures related to the purchase or retention of miscellaneous assets including real estate, notes, closely held companies, limited partnerships, mineral interests, insurance, and other unique assets.
- Extent and adequacy of periodic reviews of investment performance, taking into consideration the needs and objectives of each account or portfolio.
- Monitoring of changes in the composition of fiduciary assets for trends and related risk exposure.
- Quality of investment research used in the decision-making process and documentation of the research.
- Due diligence process for evaluating investment advice received from vendors or brokers (including approved or focus lists of securities).
- Due diligence process for reviewing and approving brokers or counterparties used.

National banks that exercise discretionary investment responsibility over a beneficiary's assets are held to the highest standard of fiduciary care. In fulfilling this duty, the fiduciary must identify assets that are appropriate

investment vehicles, administer those assets for the exclusive benefit of the beneficiaries, monitor the risks associated with investments, and implement appropriate controls to manage the risks.

The fiduciary must be concerned with both the legality and prudence of each investment. The governing instrument of a trust may provide investment guidelines to the trustee. Where it is silent, the trustee bank complies with applicable state law. Most states have adopted either the prudent man rule (PMR) or the prudent investor rule (PIR). The PMR requires each investment to be made with care, skill, and caution, and requires the individual investment to meet the overall account objective. According to the PIR, no investment is either prudent or imprudent; what is paramount is whether the overall makeup of the investment portfolio meets the account objectives.

Objective 1: Evaluate the marketable securities held by the bank as fiduciary to determine whether they are appropriate investments, taking into consideration requirements of the governing document, PIR, or PMR as applicable.

1. If not obtained as part of the request letter, obtain and review:
 - ☐ Property master list, including number of shares, par, cost, and market value of each asset held as trustee in fiduciary accounts.
 - ☐ Holders list of each asset.
 - ☐ Approved list of securities.
2. Determine how securities purchased for accounts are selected and approved.
 - If the bank uses an approved list, consider:
 - Who reviews the investment criteria supporting the list.
 - Whether purchases and sales are made in accordance with the approved list.
 - How the bank approves retention of securities that are not on the approved list.
 - If the bank does not use an approved list or does not include all security types on the approved list, determine how the bank selects securities. Consider whether:

- The selection process is reasonable and takes into consideration the financial risks inherent in each security purchased.
- Investments held meet the objectives of the account and the selection standards of the bank.
- Securities that do not meet the selection standards of the bank were specifically approved for retention, with the reasons for retention documented.

Objective 2: Determine whether the bank adequately controls the risks associated with closely held assets.

A company that is “closely held” has few shareholders and its shares are not publicly traded. For purposes of these procedures, closely held companies include corporations, partnerships (both general and limited), and sole proprietorships.

1. Evaluate the adequacy of the account acceptance process. Determine whether management, before accepting an account that owns closely held assets, evaluates its ability to supervise or administer the company considering the company’s:
 - Financial condition.
 - Management.
 - Earnings.
 - Growth.
 - Marketability.
 - Product lines or services.
 - Competition.
2. Select a sample of closely held assets held in discretionary accounts. Evaluate the adequacy of periodic reviews. Consider, as appropriate:
 - Proper valuation of assets (Internal Revenue Ruling 59-60).
 - Nature of the business and the history of the enterprise.
 - Economic outlook in general and the condition and outlook of the specific industry.
 - Book value of the stock and the financial condition of the business.
 - Earning capacity of the company.

- Capacity to pay dividends.
 - Goodwill or other intangible value of the enterprise.
 - Recent sales of stock, the price, and size of blocks sold.
 - Market price and book value of publicly traded stocks of corporations engaged in a similar line of business.
3. Determine whether bank personnel represent the interests of account beneficiaries on the board of directors of a closely held company. If so, consider:
- The adequacy of liability insurance.
 - Whether trust accounts holding the stock are reimbursed to cover any director's fees or other compensation paid to bank personnel.
4. Determine that the bank maintains appropriate insurance coverage.

Objective 3: Determine that the bank controls the risks associated with real estate.

1. Select a sample of discretionary accounts holding real estate. (Examiners may use the optional "Real Estate Worksheet" in appendix I.) Determine whether:
- Title in the property is perfected.
 - An initial inspection and evaluation of potential environmental liability was performed when the account was accepted or the real estate was funded or purchased into the account.
 - The bank periodically appraises the property. The type and use of the property will influence the frequency and rigor of the appraisals. Consider whether the real estate is:
 - Income-producing property, which many banks appraise annually.
 - Residential property occupied by the grantor or beneficiary, which many banks inspect annually and appraise as appropriate.
 - Vacant land.
 - Land with significant mineral interests.

- Adequate insurance coverage naming the trustee bank as loss payee is in effect.
 - Real estate taxes are current.
2. When the bank sells real estate from a trust, determine the adequacy of the appraisal. Evaluate the independence and qualifications of the appraiser.
 3. Review written agreements with managing agents, if employed. Consider:
 - Description of the duties and responsibilities of the agent.
 - Reporting requirements.
 - Agent commissions.
 4. Determine whether farm management accounts are properly administered and documented. Consider whether:
 - The bank has a signed contract with the owner that clearly details the bank's responsibilities.
 - The bank has signed leases with tenants that detail each party's responsibilities.
 - The farm manager keeps adequate records, including financial statements, tax returns, and periodic reports on the operation, as appropriate.

Objective 4: Determine whether the bank adequately controls risks associated with real estate loans.

Select a sample of discretionary accounts holding real estate loans. If applicable, include:

- Past-due loans. Evaluate:
 - The bank's collection efforts.
 - The bank's consideration of environmental issues if foreclosure is contemplated.
- Loans deposited in kind. Consider:
 - Payment of real estate taxes.
 - Adequate insurance coverage, with loss-payable clauses assigned to the bank as trustee.

- Loans made by the bank as trustee. Consider:
 - Lending standards.
 - Loan to appraised value.
 - Borrower's ability to repay.
 - Adequate insurance.
 - Amount of down payment.
 - Interest rate.
 - Payment of real estate taxes.

Objective 5: Determine that the bank adequately controls risks associated with mineral interests.

Select a sample of discretionary accounts holding mineral interests. Consider whether:

- Receipt of lease, royalty, and delay rental payments is timely.
- The bank takes appropriate action if payments are not received.
- Working interests are reviewed for profitability and potential environmental hazards.
- Expenditures are analyzed and approved before payment is made.

Objective 6: Determine whether the bank adequately controls risks associated with collective investment funds.

Select a sample of discretionary accounts holding collective investment funds. Evaluate compliance with 12 CFR 9.18. (See appendix K for the optional "Collective Investment Funds Worksheet.")

Objective 7: Determine the quality of internal controls.

Using the findings from achieving previous objectives, evaluate the internal control environment. Discuss findings with the examiner reviewing operations, internal controls, and audits.

Objective 8: Determine the quality of formal or informal risk management systems.

Using the findings from achieving the previous objectives, consult with the EIC and other appropriate examining personnel to make preliminary

judgments on the adequacy of risk management systems governing asset management. Consider:

- Weaknesses in recognizing and understanding existing risk.
- Evidence that risk is not measured in an accurate or timely manner.
- Failure to establish and communicate risk limits.
- Whether management accurately and appropriately monitors established risk levels.

Objective 9: Determine, after achieving the foregoing objectives, whether there is significant risk exposure from asset management activities.

In consultation with the EIC and other examining personnel, identify any significant risks that became evident during the review of asset management. Evaluate both the level and direction of risk in each applicable risk category. Refer to the risk assessment system as needed. Comment only as necessary to support your conclusions.

Objective 10: Determine the need to expand the procedures, develop a plan for corrective action, or both.

If asset management is rated 3 or worse or if significant risks were identified:

- Determine whether management is able to correct the bank's fundamental problems.
- Consider the need to expand the scope of the examination to determine the root cause of the problems.
- Work with the EIC to propose a strategy to address the bank's weaknesses and discuss with the portfolio manager.

Objective 11: Conclude the asset management review.

1. Write comments for the report of examination.
2. Update applicable OCC electronic files and working papers.

Examination Conclusions

Conclusion: The composite UITRS rating is (1,2,3,4,5).

Objective: Determine the overall condition of the bank's fiduciary services.

1. Review the recommended component ratings to determine that they comply with the Uniform Interagency Trust Rating System guidelines. Document any changes in the recommended ratings.
2. Determine the composite Uniform Interagency Trust Rating System rating, considering findings from all examination areas, including:
 - Management.
 - Operations, internal controls, and auditing.
 - Earnings.
 - Compliance.
 - Asset management.
3. Using the information generated throughout the review, determine the level and direction of transaction, compliance, reputation, and strategic risk arising from fiduciary activities. (As needed, refer to the risk assessment system in the *Comptroller's Handbook* booklet "Community Bank Supervision.")
4. Using the information generated throughout the review, determine the adequacy of fiduciary risk management systems.
5. If either the composite or management rating is 3 or worse, or if the risk arising from fiduciary activities is moderate and increasing or high, the fiduciary examiner should contact the bank EIC and the appropriate supervisory office to develop a strategy to address deficiencies before conducting the exit meeting.
6. Use comments developed in each of the examination areas to compose comments for the report of examination. Develop matters requiring board attention (MRBA) only for significant deficiencies that warrant the attention of the board.

Note: If the fiduciary examination is not conducted simultaneously with a safety and soundness examination, consult with the portfolio manager to determine whether a separate fiduciary report of examination should be sent to the bank or whether comments should be included with the next safety and soundness report of examination.

Examination Communication, Review, and Closing

Conclusion: Complete the on-site examination.

Objective: Finalize the examination process. Complete the report of examination, update information in the OCC's electronic information systems, and hold meetings with management.

1. The fiduciary examiner, or designee, should finalize a brief comment for each of the Uniform Interagency Trust Rating System ratings. If risk assessments have raised significant concerns, the examiner should state those concerns.
2. Discuss fiduciary examination findings and draft report comments with the bank EIC, portfolio manager, and assistant deputy controller, as appropriate.
3. Finalize the MRBAs, if any.
4. Allow management to review for accuracy an approved draft of examination conclusions and MRBA comments.
5. Hold an exit meeting with management to summarize examination findings. Consider:
 - Informing management of areas of success as well as areas of weakness.
 - Soliciting management's commitment to correct material weaknesses.
 - Offering examples of acceptable solutions, if known and appropriate.
 - Discussing the evaluation of risk and risk management systems.
 - Disclosing the Uniform Interagency Trust Rating System component ratings.
6. Perform a final check to ensure that the report comments are accurate and acceptable. Consider whether:
 - Comments meet established guidelines.

- Comments support the composite and component Uniform Interagency Trust Rating System ratings.
 - Violations of law citations are accurate.
7. If there are MRBA comments, upload them directly to a follow-up analysis in the OCC's electronic information system. The comment should also reflect conclusions on management's ability to:
- Resolve noted problems or issues.
 - Manage the current level of risk and anticipated risk levels if management fails to correct identified problems.
8. Upload the report comments to the "Fiduciary Examination Analysis" comment in the appropriate OCC electronic file. Supplement the analysis comment, when appropriate, to include:
- The scope of the examination.
 - Reasons for changes in the scope of the supervisory strategy for the bank.
 - The findings and conclusions, including the reasons for recommended enforcement actions or civil money penalty referrals.
 - Reasons for rating changes or confirmations.
9. Update applicable sections of electronic supervisory information systems and comments, including:
- Fiduciary ratings.
 - Risk assessments (if requested by the bank EIC).
 - Violations of law or regulation.
10. Prepare the fiduciary supervisory strategy for the next examination cycle. Refer to the *Comptroller's Handbook* booklet "Bank Supervision Process" for specific guidance.
11. Prepare the report or report comments, as appropriate, in consultation with the bank EIC. Prepare supervisory information comments and records for review by the bank EIC and the supervisory office.
12. Complete and distribute assignment evaluations.

13. Schedule, as appropriate, an exit meeting with senior management, a meeting with the board, or both. Meetings with the board should be scheduled only with the explicit approval of the bank EIC and the appropriate supervisory office. Refer to the *Comptroller's Handbook* booklet "Community Bank Supervision" for directions on preparing for board meetings.

Fiduciary Request Letter

Examiners will need certain information when they arrive on (start date of exam). All information should be as of (*examination as-of date*) unless otherwise indicated. Any documents to be returned to management should be so marked. Please provide the examiners with the following:

1. Formal fiduciary policies and procedures, if maintained, and fiduciary-related committee minutes.
2. The names and titles of all trust officers, trust committee members, trust audit committee members, and an organizational chart.
3. Copies of internal and external fiduciary audit reports for the current and previous year, and any related compliance reports. Include copies of management's responses reflecting corrective action.
4. A statement concerning any officer's, director's, or employee's embezzlement, misappropriation, or criminal misuse of fiduciary funds or property in the past two years.
5. A report on any material pending or threatened litigation related to the bank's fiduciary activities along with the fiduciary complaint file.
6. A list of all fiduciary assets that were purchased from, sold to, transferred to, or assigned to the bank, its directors, officers, employees and their family members, or affiliate interests of the bank and affiliated individuals.
7. A list of all directors, officers, significant shareholders, and their related interests.
8. A description of any financial benefits that the bank received from brokerage firms or investment management firms pursuant to an agreement (written or verbal) with the investment management firm. Include, for example:

- a. Discounts or rebates on fees paid for products or services, including 12b-1 fees.
 - b. Computer goods or services and subscriptions to publications.
 - c. Seminars and travel expenses for bank personnel in conjunction with programs offered or sponsored by investment fund sponsors.
 - e. Soft-dollar arrangements.
9. The following lists or schedules, prepared as of / / . Make available an explanation of trust system codes for each of the requested reports. (If a hard copy of the requested information already exists, it should be made available to the examiners. There is no need for the bank to produce a duplicate copy.)
- a. Fiduciary trial balance by account type (personal, employee benefit, corporate, etc.), showing the name, account number, income cash, principal cash, market value, and book value (cost) of the account.
 - b. List of all assets (using market value) in discretionary employee benefit accounts.
 - c. Property master list, including par, share, cost, and market value, of each asset held.
 - d. List of holders for each asset. Accounts holding each asset should appear on the property master list.
 - e. A list of overdrafts, showing the date the overdraft occurred. If an overdraft has been outstanding more than five business days, include the name of the account officer, the reason for the overdraft, and the approximate date and means by which it will be cleared.
10. A list of all settlements, surcharges, or other losses incurred since the beginning of the previous calendar year. Provide an explanation of each item greater than \$10,000. (For institutions with total trust assets greater than \$100 million, provide supporting documentation used in the preparation of schedule E for the annual report of trust assets.)

11. If the bank has accepted accounts as successor fiduciary since the last examination dated / / , provide the name/number of the accounts.
12. A list of all nonresident alien accounts (NRA), if applicable.
13. A list of accounts for which the bank is named trustee or co-trustee with investment discretion, but for which investment decisions are directed by another party. Also, list accounts in which assets are *not* held under dual control of the bank.
14. If the bank provides corporate trust services, provide a list of corporate trusts in default. Indicate how long the obligor has been in default, nature of the default, and current status.
15. A description of the process used to cross-trade assets between accounts and a list of all cross-trades between accounts.
16. List of approved brokers – both equity and fixed income – and reports used to track commissions or trading activity.

Community Bank

Fiduciary Activities Supervision

Appendix B

Personal Trust Account Administration Worksheet

This worksheet can help examiners who are following the personal trust account administration procedures. Its use is optional.

BANK NAME:	EXAMINATION DATE:	EXAMINER INITIALS:
ACCOUNT NAME:	ACCOUNT NUMBER:	LAST REVIEW DATE:
ACCOUNT ADMINISTRATOR:	PORTFOLIO MANAGER:	CURRENT MARKET VALUE:
ACCOUNT TYPE:	CO-FIDUCIARY(S)/APPROVALS:	BANK'S CAPACITY:

DISTRIBUTIONS:

Income Beneficiary:

To Whom:

How Often:

Who Decides:

Principal Beneficiary:

To Whom:

How Often:

Who Decides:

Emergency Provisions: Y / N

Spendthrift Clause: Y / N

TERMINATION:

When:

Remainder Interest:

INVESTMENT AUTHORITY:

Investment Objective:

Specific Investment Provisions:

Applicable Law (PMR, PIR, Grantor Directs, Other):

RETENTION AUTHORITY:

General:

Specific:

Silent:

ASSET SUMMARY:

Income Cash: _____ Principal Cash: _____ Book Value: _____

_____ % Money Market Investments
_____ % Mutual Funds:
_____ % STIF:
_____ % Other:

_____ % Bonds
_____ % US:
_____ % Taxable:
_____ % Tax Exempt:

_____ % Common Stock (# of issues: _____)
_____ % Mutual Funds:
(Proprietary? Y / N)

_____ % Real Estate _____ % REM _____ % O&G _____ % Other

Unsuitable/Illegal/Nonconforming?

Comments/Problems Noted:

Employee Benefits Worksheet

This worksheet can help examiners who are following the employee benefits administration procedures. Its use is optional.

BANK NAME:	EXAMINATION DATE:	EXAMINER INITIALS:
ACCOUNT NAME:	ACCOUNT NUMBER:	LAST REVIEW DATE:
ACCOUNT ADMINISTRATOR:	INVESTMENT OFFICER:	CURRENT MARKET VALUE:
PLAN ADMINISTRATOR:	DATE OF PLAN/AMENDMENT:	BANK'S CAPACITY:

1. Who has investment authority as described in the plan?
Bank _____ (Go to question 7)
Investment Manager _____ (Go to question 2)
Employer _____ (Go to question 7)

INVESTMENT MANAGER

2. Does the plan provide for naming an investment manager?
3. Is an investment manager named?
4. Who is the investment manager?
5. Is the investment manager registered under the Investment Advisors Act of 1940 or with the state?
6. Has the investment manager acknowledged in writing that it is a fiduciary with respect to the plan?

Go to question 13.

7. What are the plan's investment objectives?
8. Are there any unique investment provisions or instructions?
9. Are plan investments in accordance with plan documents and investment objectives (consider specific plan provisions) (ERISA Section 402 (b)(1))?
10. Are plan investments adequately diversified (ERISA Section 404 (a)(1))?
11. Are account reviews adequately documented?
12. Does the bank periodically review and update the funding policy to reflect current funding requirements?
13. If the bank is a co-fiduciary, does it take reasonable steps to avoid breaches of fiduciary duty by other co-fiduciaries?
14. Are trustee bank savings accounts allowed?
15. Does the plan allow for investing in own bank collective investment funds (CIFs)?
16. Does the plan invest in the bank's proprietary mutual funds?
 - Does it meet the requirements of Prohibited Transaction Exemption 77-4?
17. Does the plan allow for loans to participants?
 - Do the loans comply with ERISA and the Internal Revenue Code?
18. Does the bank maintain party-in-interest information for the account?
 - Have there been any party-in-interest transactions (ERISA 406)?
19. Is there an Internal Revenue Service determination letter on file?

Qualifying Employer Securities and Qualifying Employer Real Property

20. If the account is a defined benefit plan, do qualifying employer securities (QES) exceed 10 percent of the market value of the plan?
21. If the account is not a defined benefit plan, is it eligible to invest in QES and qualifying employer real property (QERP)? Does the amount of QES and QERP held exceed the limit set by the plan (or 10 percent of the market value if the plan does not set a limit) (ERISA 407)?
22. If QES are held, how does the plan call for determining the fair market value?
 - If the QES are not publicly traded, is there a proper valuation and review?

Comments/problems noted:

Employee Stock Ownership Plans Worksheet

This worksheet can help examiners who are following the employee benefit procedures. Its use is optional.

Account Name and Number: _____

Bank's Capacity: _____

Account Officer: _____

1. Has the account had transactions in qualifying employer securities (QES)?

DATE	SECURITY TYPE	BOT/ SOLD	TRANS. PRICE	VAL. DATE	VAL. PRICE

2. Did the bank review the adequacy of the valuations for nontraded QES?
3. Were any of the QES purchased from or through a disqualified person?
4. Has the employee stock ownership plan (ESOP) borrowed to acquire QES? (In other words, is it a leveraged ESOP?)

The questions below apply only to leveraged ESOPs:

5. Are the loan's terms at least as favorable as the terms between independent parties?

6. Is the loan from the trustee bank?
7. Were the loan proceeds used to purchase QES (26 CFR 54.4975-7(b)(4))?
8. Is the loan without recourse against the ESOP (26 CFR 54.4975-7(b)(5))?
9. Are collateral QES released from encumbrance in amounts consistent with the regulations to avoid plan disqualification (26 CFR 54.4975-7(b)(8))?
10. Are voting rights attached to the QES passed through to the participants (Internal Revenue Code 409(e))?
11. Is there a put option requiring the employer to buy back the nontraded QES after distribution to the participants (26 CFR 54.4975(b)(10)), Internal Revenue Code 409(h))?

ESOP WORKSHEET INSTRUCTIONS / EXPLANATIONS

QES Valuations – In the case of a transaction between a plan and disqualified person, the QES' value must be determined as of the date of the transaction. For nontraded QES, the bank should review the adequacy of the valuation and the independence of the stock appraiser.

Disqualified Person – The definitions of "disqualified person" and "party-in-interest" are the same except for a few technical differences. See IRC 4975(e)(2) for the definition of disqualified person.

Loan from Trustee Bank – If the loan is from the trustee bank, a potential conflict of interest exists. The bank should be aware that it may have to resign from the account if the company that has established the ESOP begins to have financial problems. If the company can't pay the contributions needed to make the loan payments, the bank is caught between foreclosing on the loan and acting as trustee for the best benefit of the participants in the ESOP. The bank should resign before it is placed in this position.

Loan Proceeds – The proceeds of an exempt loan must be used within a reasonable time after receipt and only for one of the following purposes: to acquire QES, repay such a loan, or repay a prior exempt loan.

Loan without Recourse – An exempt loan must be without recourse against the ESOP but may be secured by the stock purchased with the proceeds of the loan.

Collateral QES – QES acquired with the proceeds of an exempt loan must be maintained in a suspense account while encumbered as collateral against the loan. As the loan is repaid, the collateral QES must be released from encumbrance according to the rules stated in the regulation.

Voting Rights – QES – Under Internal Revenue Code 409(e)(2) and (e)(3), each participant or beneficiary in the plan is entitled to direct how the plan will vote QES allocated to his or her individual account.

Put Option – QES acquired with the proceeds of an exempt loan by an ESOP after September 30, 1976, must be subject to a put option if they aren't publicly traded when distributed or if they are subject to a trading limit when distributed.

Community Bank

Fiduciary Activities Supervision

Appendix E

Corporate Trust and Agency Worksheet

This worksheet can help examiners who are following the corporate trust and agency administration procedures. Its use is optional.

Exam Date:

Account number _____ Issuer _____

Security description _____

Officer _____ Issue date _____ Maturity date _____

Original amount _____ Outstanding amount _____

Review of Documentation (for New Accounts)

- | | |
|---|--|
| <input type="checkbox"/> Governing instrument | <input type="checkbox"/> Attorney's opinions |
| <input type="checkbox"/> Board resolution | <input type="checkbox"/> Successor trustee indemnification and certification of amount outstanding (if necessary). |
| <input type="checkbox"/> Articles of incorporation | |
| <input type="checkbox"/> Corporate bylaws | <input type="checkbox"/> Receipts from obligors and underwriters for authenticated securities. |
| <input type="checkbox"/> Specimen bonds (if any) | |
| <input type="checkbox"/> Specimen signatures (if any) | <input type="checkbox"/> Registration with the SEC (Form S-1, S-2 or S-3) |
| <input type="checkbox"/> Lease agreement (if any) | If a Trust Indenture Act (TIA) issue: |
| <input type="checkbox"/> PSC approval (if any) | <input type="checkbox"/> Application |
| | <input type="checkbox"/> Statement of eligibility (Form T-1) |

Review of Account Administration

Annual conflicts reviews performed?	<input type="checkbox"/> yes	<input type="checkbox"/> no	
Trustee reports filed (if required)?	<input type="checkbox"/> yes	<input type="checkbox"/> no	section <input type="checkbox"/>
Current financial statements on file?	<input type="checkbox"/> yes	<input type="checkbox"/> no	section <input type="checkbox"/>
Other financial information required?	<input type="checkbox"/> yes	<input type="checkbox"/> no	section <input type="checkbox"/>
Current officer certificate on file?	<input type="checkbox"/> yes	<input type="checkbox"/> no	section <input type="checkbox"/>
Collateral perfection on file?	<input type="checkbox"/> yes	<input type="checkbox"/> no	section <input type="checkbox"/>
Current insurance coverage on file?	<input type="checkbox"/> yes	<input type="checkbox"/> no	section <input type="checkbox"/>
Is the trustee named as loss payee?	<input type="checkbox"/> yes	<input type="checkbox"/> no	
Do investments conform to indenture?	<input type="checkbox"/> yes	<input type="checkbox"/> no	section <input type="checkbox"/>
Who exercises investment discretion?	<input type="checkbox"/> Treasuries/agencies <input type="checkbox"/> Own bank CDS <input type="checkbox"/> Other bank CDS		
	<input type="checkbox"/> Commercial paper	<input type="checkbox"/> Corporate bonds	<input type="checkbox"/> Repurchase agreements
	<input type="checkbox"/> Bankers' acceptances	<input type="checkbox"/> Mutual funds	<input type="checkbox"/> Municipal securities
	<input type="checkbox"/> Other (describe) _____		

Notes/comments:

Corporate Trust and Agency Worksheet Instructions

Issuer: List both the issuer and the obligor, if different.

Description: Describe the type of security (e.g., IDR, GO, serial).

Officer: Bank officer who is administering account.

Issue Date: The date stated on the bonds.

Original Amount: Total amount originally issued.

Outstanding: Current balance outstanding.

Attorney Opinions: Several attorney opinions should be on file.

The bond counsel opinion should clearly state that the issue is in conformance with all applicable securities laws. For a supplemental bond, the opinion should state that it was issued in accordance with the provisions of the previous issue. A trustee's counsel opinion may or may not be present. If not, the examiner should discuss why the bank chose not to seek this opinion.

SEC Registration: If the bonds are subject to SEC registration, the trustee should find a copy of the registration form.

Registration: The examiner should be able to determine whether the issue is subject to any registration by reading the bond counsel opinion.

Conflicts Review: The trustee should determine, at least annually, whether any conflicts of interest exist.

Review: Discretionary investments should be reviewed to ensure compliance with 12 CFR 9.12. A specific review should be completed for accounts subject to the TIA. While the TIA does not require any action until a default occurs, the trustee should be aware of any potential problems.

Collateral: The trustee must ensure that it has legally perfected its interest in any real or personal property. This often involves filing a real estate mortgage, obtaining a title opinion or insurance, and filing a UCC financing statement. Most states require a continuation of the financing statement to be periodically refiled to maintain perfection.

Insurance: The type and amount of insurance is usually listed in the indenture. The trustee should always be named as loss payee.

PSC: For utility issues, the approval of the Public Service Commission is often required.

Stock Transfer Agency Worksheet

This worksheet can help examiners who are following the stock transfer agency procedures. Its use is optional.

Exam Date:

Account number _____ Issuer _____

Officer _____ Security description _____

Review of Documentation on New Accounts

- | | |
|--|---|
| <input type="checkbox"/> Agency agreement | <input type="checkbox"/> Corporate resolution |
| <input type="checkbox"/> Specimen certificates | <input type="checkbox"/> Attorneys' opinions |
| <input type="checkbox"/> Specimen signatures | <input type="checkbox"/> Articles of incorporation |
| <input type="checkbox"/> Corporate bylaws | <input type="checkbox"/> PSC approval (if applicable) |

Account Administration

Was issue previously handled by another transfer agent? ☐ yes ☐ no

If yes, was a certified list of stockholders obtained? ☐ yes ☐ no

Does the certified list show:

- | | |
|-----------------------------|--|
| Stockholder name? | <input type="checkbox"/> yes <input type="checkbox"/> no |
| Stockholder address? | <input type="checkbox"/> yes <input type="checkbox"/> no |
| Number of shares owned? | <input type="checkbox"/> yes <input type="checkbox"/> no |
| Certificate numbers issued? | <input type="checkbox"/> yes <input type="checkbox"/> no |

List of certificates with stop orders obtained? ☐ yes ☐ no

Appropriate indemnification obtained? ☐ yes ☐ no

Notes/comments:

Paying Agent and Bond Registrar Worksheet

This worksheet can help examiners who are following the paying agent and bond registrar procedures. Its use is optional.

Exam Date:

Account number _____ Issue description: _____

Officer _____ Original amount _____ Outstanding amount _____

Does the bank have the following information on file?

- ☐ Agency agreement specifying all duties and responsibilities.
- ☐ Bond ordinance/resolution.
- ☐ Certification from previous paying agent, if applicable.
- ☐ Specimen bond, if applicable.
- ☐ Specimen signatures.
- ☐ Any legal opinions.
- ☐ Instructions on how to handle canceled securities.
- ☐ All required tax information (obligor's Tax Identification Number, W-9s, etc.).
- ☐ Identification of dormant accounts, including paying agent, dividend disbursements, bond interest, and principal accounts?

Notes/comments:

Community Bank

Fiduciary Activities Supervision

Appendix H

Escrow Agent Worksheet

This worksheet can help examiners who are following the escrow agent procedures. Its use is optional.

Exam Date:

Account number _____ Type of escrow _____

Officer _____ Account name _____

Committee approved new account? ☐ yes ☐ no Date: _____

Party 1

Party 2

Tax Identification Number (TIN)

on file? ☐ yes ☐ no

TIN on file? ☐ yes ☐ no

Does escrow agreement address the following subjects?

- ☐ Fees (including escalation).
- ☐ Interpleader.
- ☐ Joint and several indemnification.
- ☐ Termination.
- ☐ Resignation.
- ☐ Distribution of escrow (no discretion).
- ☐ Disclaimer of liability for any acts.
- ☐ Ability to consult counsel.
- ☐ Ability to rely on notices.
- ☐ Escrow agent not a party to any other agreement.
- ☐ Escrow agent acts as a depository only.
- ☐ Investment instructions (disclaimer for any loss or penalty).
- ☐ Funds availability.
- ☐ Other _____.

W-9s for all parties receiving
escrow disbursements? ☐ yes ☐ no

Fees collected in advance when
escrow agreement executed? ☐ yes ☐ no

Escrow assets recorded on books? ☐ yes ☐ no

Assets under institution's control? ☐ yes ☐ no

Have ticklers been set up? ☐ yes ☐ no

Has an account file been set up? ☐ yes ☐ no

Community Bank

Fiduciary Activities Supervision

Appendix I

Real Estate Worksheet

This worksheet can help examiners who are following the real estate procedures. Its use is optional.

Account name _____ Account type _____

Account number _____ Administrator _____

Address of property _____

Date of last inspection _____ Condition of property _____

Date and value of last appraisal _____

System carrying value _____ Fee calculation based on _____

Insurance policy effective dates _____

Income-producing _____ Non-income-producing _____ Vacant land _____

Environmental issues _____

1. Items to consider when acquiring or retaining a property:
(Check if considered and no issues found, highlight any deficiencies.)

- _____ Property occupied/managed by grantor or beneficiary.
- _____ Condition of title.
- _____ Current appraisal by a qualified appraiser.
- _____ Inspection reports.
- _____ Current yield, income and expense records.
- _____ Leases and rents, including status of delinquent rents.
- _____ Cost of maintenance, repairs, and capital improvements.
- _____ Annual inspection/condition of property.

- ☐ Proper insurance.
 - ☐ Taxes current.
 - ☐ Potential liability for environmental risks.
2. Does the bank determine the condition of the title to real property under administration in accounts with investment responsibility? (N/A if exempt)
- _____
- _____
- _____
3. Are the following items considered when the bank makes a recommendation or attempt to sell real estate?
- ☐ Current appraisals by competent appraisers.
 - ☐ Comparable sales analysis.
 - ☐ Use of multiple listings, when appropriate.
4. If a management agent is employed, determine whether the management agency agreement:
- ☐ Adequately establishes the agent's duties and responsibilities, frequency of reporting, and commission charges.
 - ☐ Has been approved by bank legal counsel.
5. For administration and operation of agricultural, ranch, and other non-urban properties, determine whether the bank:
- ☐ Uses bank personnel to manage and administer the property.
 - ☐ Uses independent agents to manage and administer the property.
 - ☐ Ensures that the manager and administrator is qualified.
 - ☐ Has operating tenant agreements reviewed by bank counsel when tenant operators are engaged to operate the properties.

6. Does the bank have procedures for verifying the amount of farm commodities, such as grain and tobacco, stored in elevators or warehouses (for example, by inspecting warehouse receipts)? _____
- _____
- _____
- _____

Notes/comments:

Community Bank

Fiduciary Activities Supervision

Appendix J

Real Estate Loan Worksheet

This worksheet can help examiners who are following the real estate loan procedures. Its use is optional.

Account name _____

Account number _____

Date _____

Borrower _____

Project name _____

Was loan made by trustee? Yes _____ No _____

If "no," by whom? _____

Is loan to be collected or held? Collected _____ Held _____

NOTE: If loan is to be held, go to analysis comment area and describe it. Include why the trustee is not pressing for collection.

Amount of loan(s): loan (1) _____ (2) _____ (3) _____

Date of loan(s): (1) _____ (2) _____ (3) _____

Due date(s): (1) _____ (2) _____ (3) _____

Renewals: (1) _____ (2) _____ (3) _____

Current balance of loan(s): (1) _____ (2) _____ (3) _____

Is there collateral? yes _____ no _____

If yes, describe.

Analysis of evaluation/appraisal, including loan-to-value ratios, if appropriate.

Analysis comment. Include any projected actions by management.

Notes/comments:

Community Bank

Fiduciary Activities Supervision

Appendix K

Collective Investment Funds Worksheet

This worksheet can help examiners who are following the collective investment fund procedures. Its use is optional.

Name of bank _____
Name of fund _____ Type: ____ A(1) ____ A(2) ____ C()

EXAMINATION DATE:

Number of units:
Market value and valuation date:
Cost at valuation:
Any diversification concerns?
Any agent accounts?
Improper investments?
Borrowings from bank or affiliates?

REPORTS:

Financial report based on an audit?
Reports or ads make any improper comparisons or guarantees?
Is notice or copy of report being sent to all required?

ADMISSIONS AND WITHDRAWALS:

Proper requests on file?
Requests made on or before valuation date?

GENERAL:

All charges to fund proper?
Any improper advertising?
Copy of plan available to the public?

OTHER MATTERS:

Community Bank

Fiduciary Activities Supervision

Appendix L

Earnings Analysis Worksheet

This worksheet can help examiners who are following an analysis of earnings trends. Its use is optional.

Past 5 years	199_	199_	199_	199_	199_
Total assets					
Discretionary assets					
Trust fees					
Direct expense					
Indirect expense					
Net income					

Community Bank

Fiduciary Activities Supervision

References

Laws

- 12 USC 92(a), Exercise of Trust Powers by National Banks
- 15 USC 77a et seq., The Securities Act of 1933
- 15 USC 77aaa et seq., Trust Indenture Act of 1939
- 15 USC 78(a) et seq., The Securities Exchange Act of 1934
- 15 USC 80a-1 et seq., Investment Company Act
- 15 USC 80b-1 et seq., Investment Advisers Act of 1940
- 29 USC 1001, Employee Retirement Income Security Act of 1974

Rules and Regulations

- 12 CFR 9, Fiduciary Activities of National Banks, Rules of Practice and Procedure
- 12 CFR 12, Record Keeping and Confirmation Requirements for Securities Transactions
- 12 CFR 21, Minimum Security Devices and Procedures
- 12 CFR 240.17f-1, Lost, Stolen, Missing, and Counterfeit Information Systems
- 17 CFR 240.14-17, Shareholders Communications Rules
- 17 CFR 240.17Ad-1 et seq., Rules for Registered Transfer Agents
- 31 CFR 103, Financial Record Keeping and Reporting of Currency and Foreign Transactions

OCC Issuances

- Banking Circular 218, "Sweep Fees"
- Banking Circular 275, "Free Riding in Custody Accounts"
- Comptroller's Handbook*, "Bank Supervision Process"
- Comptroller's Handbook*, "Communication"
- Comptroller's Handbook*, "Examination Planning and Control"
- Comptroller's Handbook*, "Community Bank Supervision"
- OCC Bulletin 98-1, "Interagency Policy Statement on Internal Audit and Internal Audit Outsourcing"
- OCC Bulletin 98-46, "Uniform Interagency Trust Rating System"
- Trust Banking Circular 13, "Trust Fee Concessions"
- Trust Banking Circular 17, "Soft Dollar Purchases"
- Trust Banking Circular 18, "Adoption of Interagency Agreement on ERISA"

Trust Banking Circular 25, "Use of Commission Payments by Fiduciaries"